

MORENO & RIVERA, LLP

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Jesse M. Rivera, CSN 84259
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Jonathan B. Paul, CSN 215884

Attorneys for Plaintiff,
GEORGE KIRBYSON

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

GEORGE L. KIRBYSON,

Plaintiff,

vs.

TESORO REFINING AND MARKETING
COMPANY, BRUCE SMITH, DAN
PORTER, WILLIAM BODNAR, BILL
REITZEL, DANIEL CARLSON, RICK
RIOS, TAMMY MEAMBER, DIANE
DANIELS, LARRY ANGEL, UNITED
STEELWORKERS INTERNATIONAL
UNION LOCAL 5, JEFF CLARK, STEVE
ROJEK, and DOES 1 through 200, inclusive,

Defendants.

CASE NO. C09-03990 SC

***AMENDED* STIPULATED REQUEST FOR
ENLARGEMENT OF TIME RE: COURT
ORDER OF SEPTEMBER 17, 2010
(DOC. 63); DECLARATION OF SHANAN
L. HEWITT IN SUPPORT THEREOF**

IT IS HEREBY STIPULATED by all parties to this action and the parties have agreed to request an enlargement of time of the scheduling order set forth in the Court's order of September 17, 2010. The parties have stipulated to the enlargement of time for expert disclosure, discovery, and hearing of motions. The parties hereby propose the following modified dates:

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1 Expert Disclosure: April 13, 2011

2 Discovery Deadline: April 20, 2011

3 Motions Hearing: Last hearing date for motions, May 6, 2011

4
5 Date: March 4, 2011

MORENO & RIVERA, LLP

6
7 /s/ Shanan L. Hewitt
SHANAN L. HEWITT
8 Attorney for Plaintiff,
George Kirbyson

9 Date: March 4, 2011

FULBRIGHT & JAWORSKI, LLP

10
11 /s/ Amy McGinnis Gillinger

12 AMY MCGINNIS GILLINGER,
13 Attorney for Defendant,
Tesoro Refining and Marketing Company

14
15 Date: March 4, 2011

WEINBERG, ROGER & ROSENFELD

16
17 /s/ Kristina L. Hillman

18 KRISTINA L. HILLMAN,
19 Attorney for Defendant,
United Steelworkers International Union,
20 Local 5

DECLARATION OF SHANAN L. HEWITT IN SUPPORT OF
AMENDED STIPULATED REQUEST FOR ENLARGEMENT OF TIME

I, Shanana L. Hewitt, declare that:

1. I am attorney of record for Plaintiff GEORGE KIRYBSON and have personal knowledge of each and all of the facts stated in this Declaration.

2. I am an attorney authorized to practice law in the State of California and the U.S. District Courts for the Eastern and Northern Districts of California, the Ninth Circuit Court of Appeals and the United States Supreme Court.

3. Plaintiff's counsel and counsel for Tesoro have agreed to mediate this action. In addition, Plaintiff and Defendant USW Local 5 are currently engaged in settlement discussions. Due to mediators' busy calendars, the parties are diligently trying to select a mediator that can mediate this case as soon as possible. However, it is unknown whether the parties will be able to locate a qualified mediator that will be able to mediate this case in approximately the next 30 days. For example, one of the mediators under consideration by the parties is not available until May 11, 2011.

4. The current upcoming pretrial deadlines in this case are as follows:

Expert Disclosure: April 1, 2011 (pursuant to the parties stipulation of March 3, 2010 if approved by the Court)

Discovery Deadline: April 6, 2011

Motions Hearing: Last hearing date for motions, April 29, 2011

On March 1, 2011, the parties filed a stipulated request to enlarge time which included a request to continue the pretrial conference and trial date (Doc. 67). However, the Court denied said request, and the parties have been informed that the Court will not consider a change to the trial date. In an attempt to save additional expenses of the parties (i.e. in conducting discovery, preparing expert disclosure and the expense of expert reports, and the expense of preparing dispositive motions) that can be better focused on settlement of this case, the parties are requesting that the Court modify the current scheduling order so that the parties may attempt to resolve this case.

5. Plaintiff's counsel has conferred with defense counsel Michael S. Chamberlin, Amy McGinnis Gillinger and Kristina L. Hillman and the parties have stipulated to an enlargement of time for these scheduling deadlines.

6. Due to the anticipated timing of mediation in this case and in the interest of saving the time and expense for the parties and the Court, the parties request that the deadlines, as set forth in the Court's order of September 17, 2010 (Doc. 63), be modified as follows:

Expert Disclosure: April 13, 2011

Discovery Deadline: April 20, 2011

Motions Hearing: Last hearing date for motions, May 6, 2011

7. This is the second request for modification of time brought before this Court (first request filed March 1, 2011 (Doc. 67)).

8. Counsel is not bringing this request to cause any undue delay or for any dilatory purpose.

9. Counsel respectfully requests that this Honorable Court grant the parties' request and continue the dates set forth in the scheduling order in order to permit the parties to attempt to settle this action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 4th day of March 2011, at Sacramento, California.

/s/ Shanan L. Hewitt

SHANAN L. HEWITT

George L. Kirbyson v. Tesoro Refining and Marketing Company, et al.
U.S. District Court, Northern District Sacramento
Case Number C 09-03990 SC

PROOF OF SERVICE

I am a citizen of the United States, employed in the City and County of Sacramento. My business address is 1451 River Park Dr., Suite 145, Sacramento, California, 95815. I am over the age of 18 years and not a party to the above-entitled action.

I am familiar with MORENO & RIVERA, LLP's practice whereby the mail is sealed, given the appropriate postage and placed in a designated mail collection area. Each day's mail is collected and deposited in a U.S. mailbox after the close of each day's business.

On the following date, I served the attached:

***AMENDED* STIPULATED REQUEST FOR ENLARGEMENT OF TIME RE:
COURT ORDER OF SEPTEMBER 17, 2010 (DOC. 63);
DECLARATION OF SHANAN L. HEWITT IN SUPPORT THEREOF**

X on the parties below in this action via electronic mail.

____ (By Express Mail pursuant to Code of Civil Procedure section 1013.) I deposited each sealed envelope, with the postage prepaid, to be delivered via Federal Express to the party(ies) so designated on the service list.

addressed as follows:

Attorneys for Tesoro

Michael S. Chamberlin
Fulbright & Jaworski, L.L.P.
555 South Flower Street, 41st Floor
Los Angeles, CA 90071

mchamberlin@fulbright.com

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on March 4, 2011 at Sacramento, California.

/s/ Rhonda Harrigan

RHONDA HARRIGAN

MORENO & RIVERA, LLP

1451 River Park Drive, Suite 145
Sacramento, California 95815

Tel: 916-922-1200 Fax: 916 922-1301

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Attorneys for Plaintiff,
GEORGE KIRBYSON

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IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**

GEORGE L. KIRBYSON,
Plaintiff,

vs.

TESORO REFINING AND MARKETING
COMPANY, BRUCE SMITH, DAN
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STEELWORKERS INTERNATIONAL
UNION LOCAL 5, JEFF CLARK, STEVE
ROJEK, and DOES 1 through 200, inclusive,

Defendants.

CASE NO. C09-03990 SC

**~~PROPOSED~~ ORDER ON AMENDED
STIPULATED REQUEST FOR
ENLARGEMENT OF TIME RE: COURT
ORDER OF SEPTEMBER 17, 2010 (DOC.
63)**

The parties to this action have stipulated and agreed to an enlargement of time of the scheduling order set forth in the Court's order of September 17, 2010. The parties have stipulated to the enlargement of time for expert disclosure, discovery, and hearing of motions. Accordingly, the Court's order of September 17, 2010 (Doc. 63) is modified as follows:

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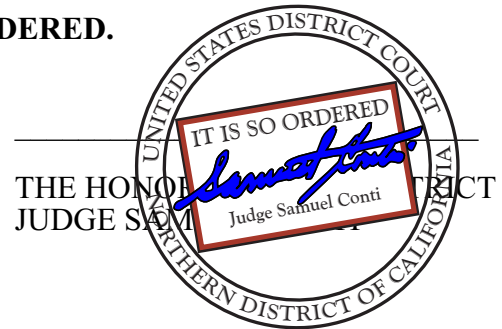
Expert Disclosure: April 13, 2011

Discovery Deadline: April 20, 2011

Motions Hearings: Last hearing date for motions, May 6, 2011

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: 3/7/11



1 ***George L. Kirbyson v. Tesoro Refining and Marketing Company, et al.***
2 U.S. District Court, Northern District Sacramento
Case Number C 09-03990 SC

3 **PROOF OF SERVICE**

4 I am a citizen of the United States, employed in the City and County of Sacramento. My
5 business address is 1451 River Park Dr., Suite 145, Sacramento, California, 95815. I am over
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appropriate postage and placed in a designated mail collection area. Each day's mail is collected
8 and deposited in a U.S. mailbox after the close of each day's business.

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10 **[PROPOSED] ORDER ON *AMENDED* STIPULATED REQUEST FOR
ENLARGEMENT OF TIME RE: COURT ORDER OF SEPTEMBER 17, 2010
(DOC. 63)**

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party(ies) so designated on the service list.

14 addressed as follows:

15 **Attorneys for Tesoro**
16 Michael S. Chamberlin
Fulbright & Jaworski, L.L.P.
17 555 South Flower Street, 41st Floor
18 Los Angeles, CA 90071

19 mchamberlin@fulbright.com

20
21 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
22 is executed on March 4, 2011 at Sacramento, California.

23
24 _____ /s/ Rhonda Harrigan

25
26 RHONDA HARRIGAN